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11 JUN 1982

MEMORANDUM FOR: Director of Central Intelligence

FROM:

[REDACTED]

Director, Office of External Affairs

SUBJECT:

Your Address to the Commercial Law
League of America, 14 June 1982

STAT

1. As you are aware, you are scheduled to address the Commercial Law League of America this Monday, 14 June at the Metropolitan Club. I mentioned to you previously that I believed that this would be a good forum in which you can make a strong pitch for FOIA exemption.

2. Your Special Assistant [REDACTED] has informed my staff that you are planning to rework the speech you gave last week to the Anti-Defamation League in New York as the basis for your address on Monday. As further support for your remarks, I have had the attached talking points drawn together for you on FOIA that you might wish to incorporate as well as a few remarks on our Identities Bill.

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[REDACTED]

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Attachments

COMMERCIAL LAW LEAGUE OF AMERICA

14 June 1982

SUGGESTED FOIA TALKING POINTS

As nation we have propensity for shooting ourselves in the foot. One of these self-inflicted wounds, close to my heart, leaves us only country in world which gives foreign intelligence agencies and anyone else legal license to poke into our files. Question very seriously whether secret intelligence agency and Freedom of Information Act can co-exist for very long. Willingness of foreign intelligence services to share information and rely on us fully, and of individuals to risk their lives and reputations to help us will continue to dwindle away unless we get rid of Freedom of Information Act. Secrecy essential to any intelligence organization. Ironically, secrecy accepted without protest in many areas of our society. Physicians, lawyers, clergymen, grand juries, journalists, income tax returns, crop futures--all have confidential aspects protected by law. Why should national security information be entitled to any less protection? Not asking for retreat from commitment to protecting essential liberties but only to bear in mind, as Justice Goldberg once said, that "while the Constitution protects against invasions of individual rights, it is not a suicide pact."

Must revise FOIA. Must make it harder for enemies to operate and obtain information on U.S. and its operative people at home and abroad. Doubt most Americans realize potential harm and existing damage caused by FOIA for intelligence organizations. We are losing foreign agents; they

fear something might be released that will expose them. Besides, these releases are available to anyone; KGB is one of main paying customers for information released. Ludicrous that organization like CIA and rest of Intelligence Community--whose main job is to keep secrets--is subject to such an Act.

Three Bills now pending

- Durenberger Bill (S. 2452) but it not only does not provide CIA with relief from FOIA, it places CIA in worse position than does current FOIA statute.

- Hatch Bill (S. 1730) tinkers favorably with several provisions of FOIA, but provides no relief of consequence for Central Intelligence Agency.

- Chafee Bill (S. 1273) begins to approach type of relief Agency needs by exempting DCI-designated files in certain broad categories from search, review, and release under FOIA. However, many Agency records, such as finished intelligence reports, would remain subject to FOIA.

Need to exclude CIA totally.

Not critical of basic purposes of the Freedom of Information Act. Nor ask for exemption from Privacy Act, which gives every American right to seek information about themselves from CIA files. Do seek to correct incompatibility of searching secret files for possible release of information to public.

FOIA symbol to world of this Government's inability to protect vital secrets and those who provide those secrets.

Many potential sources have strong perception that FOIA endangers

confidentiality of their relationships with CIA. Consequently, many simply elect not to cooperate. Impossible to quantify how many agents or potential agents, foreign intelligence services, or corporations have simply remained silent. But feel it is significant.

Point is simply this--searching secret files for release is fundamentally incompatible with need of intelligence organization for secrecy. No other intelligence service in world is subject to law like FOIA.

CIA often asks foreigners to commit ultimate treason, that is, to spy on their country--to commit espionage.

In return they are promised anonymity. Successful recruitment of foreign agents for this purpose depends entirely on ability of CIA to guarantee that anonymity.

Many presume, however, that under FOIA, CIA must search its files for information releasable to the public. They also aware Agency can legally refuse to release identities of its sources.

Nevertheless, knowledge that such a search can even take place sends chills through those who have provided information in past, and inhibits those who might be inclined to do so in future.

In numerous cases active agents have drawn back or refused all further cooperation.

To such agents, even potential of public disclosure is too great a threat to their careers, their lives, their families, they know the penalty can be imprisonment, torture, or death.

FOIA also prime tool of those who are hostile to American intelligence mission.

Some have carried on national campaign to discredit CIA using FOIA; particularly on college campuses.

Mere possibility of litigation against CIA resulting from unsatisfied FOIA requesters further threatens the disclosure of secrets. Nearly 200 such lawsuits have already occurred.

Complying with the Act is uniquely difficult task for CIA which no amount of additional manpower or money can rectify.

CIA's filing system is integral part of its security procedures. Sensitive sources and methods protected through complex system of compartmented and decentralized records. Even inside CIA, officials must have "need to know" to gain access to many files. Searching files to satisfy FOIA request becomes uniquely difficult. Relatively simple request might require as many as 21 records systems be searched--difficult request might require search of more than 100 separate systems, each containing millions of bits of information.

More importantly, this exhaustive review must be done by experienced senior officials who are equipped to make difficult decisions.

Public not well served by intelligence information released under FOIA. Information is usually fragmentary and often misleading.

President has repeatedly stated his determination to enhance Nation's intelligence capabilities. Am committed to work toward achieving that goal. To do this, our intelligence agencies must be able to focus energies on timely and accurate gathering and analysis of information in manner which insures secrecy of sources and content of that information. Strongly believe current application of FOIA is detrimental to accomplishment of intelligence missions.

As members of legal profession, you all understand intricacies of such Acts and maneuverings that can be accomplished to erode basic protections

afforded in Act. So long as CIA remains subject to FOIA, are vulnerable to such devastations of law. Seek your support in educating public to its incompatibility with national security interests and support as this Administration moves ahead in next year to rectify this and protect our national secrets.

SUGGESTED TALKING POINTS ON IDENTITIES BILL

As you all are aware, now have an Agent Identities Bill. Senate voted 81-4 this past week to enact this Bill which will help ensure the protection of identities of our covert agents. Bill establishes just criminal sanctions against unauthorized disclosures of names of these men and women who entrust their very lives to U.S. Government. Aimed to stop traitorous acts of such men as Louis Wolf of Covert Action Information Bulletin and our own Agency traitors like Phillip Agee. Not after innocent, inadvertent disclosures. Carefully designed to reach those who wish to impair or impede U.S. foreign intelligence activities yet preserve basic civil liberties.

This Bill has been a must. To rebuild this Nation's defenses, must begin with basic protection of our people involved in such work. As nation, owe those who lay life and family on the line the best protection allowable. Can't achieve goal of best intelligence without this fundamental stepping stone--If U.S. unable to protect own personnel, how can it protect those we ask to commit ultimate sacrifice and spy on our behalf.

This Bill long in reaching fruition. Diligent work of both Carter and now Reagan Administrations have delivered our goal. No less important has

been diligent work of Congressional Staffs and Members. Am proud it has come to be while I am DCI, but share credit with all involved. Would also be remiss to understate consistent, dedicated support rendered by so many Americans, such as yourselves, who support this Nation's intelligence activities. As Nation, Federal Government and private citizens, have laid benchmark with Identities Bill for strengthening of American intelligence activities and hence our National Security.

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Speech to the Commercial Law League of America, 14 June 1982

FROM: [Redacted]	EXTENSION: [Redacted]	NO. [Redacted]	STAT [Redacted]
Director, Office of External Affairs		DATE [Redacted]	STAT [Redacted]

TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
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